

## REMARKS

This paper is being provided in response to the Office Action dated June 25, 2008, for the above-referenced application. In this response, Applicant has cancelled claims 2, 7 and 8 (claim 28 having been previously cancelled) without prejudice or disclaimer of the subject matter thereof and amended claims 1, 3, 4, 6, 9, 10, 13, 14, 15, 20, 24, 25 and 29 and added new claim 31 to clarify that which Applicant considers to be the presently-claimed invention. Applicant respectfully submits that the amendments to the claims and the new claim are fully supported by the originally-filed specification, as discussed below.

As an initial matter before addressing the rejections, the Office Action indicates that "claims 1-25" are pending and these are the claims that have been examined in the Office Action. However, the Preliminary Amendment filed with the application on October 14, 2004 (identified in PAIR records and on the Notice of Acceptance of Application Under 35 U.S.C. 371 mailed February 24, 2006) contains pending claims 1-27, 29 and 30. Accordingly, it appears that claims 26, 27, 29 and 30 are currently pending but have not been appropriately examined. These claims are entitled to examination.

The rejections of claims 13 and 25 under 35 U.S.C. 112, second paragraph, as being indefinite have been addressed by amendments contained herein in accordance with the guidelines set forth in the Office Action. Accordingly, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

The rejection of claims 1-4, 6-7 and 10-21 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,939,610 to Iwamoto, et al. (hereinafter "Iwamoto") is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein.

Independent claim 1, as amended herein, recites a measuring device including an elongated first electrode having a longitudinal axis for insertion into a material to be measured. A housing at least partially surrounds the first electrode, wherein the first electrode is movable in relation to the housing in the axial direction of the longitudinal axis. A receptacle device accommodates an end of the first electrode, wherein the housing has a base plate on a side of the receptacle device and the receptacle device is part of the base plate, and wherein the base plate is made of an elastic material. A chamber is enclosed by the housing and is tightly sealed with respect to the outside, wherein the base plate tightly seals a lower area of the chamber. Claims 3-6 and 9-23 and 29 depend directly or indirectly from independent claim 1.

The Iwamoto reference discloses an ion concentration measuring apparatus with internal calibration fluid reservoir. The Office Action cites principally to Figures 1, 2A and 2B of Iwamoto, citing to PH meter 1, measuring electrode 11, housing member 2, spring 20, control member 5, and measuring portion holder 3, among other elements.

Applicant recites, in amended claim 1, a measuring device having at least the features of a housing that has a base plate on a side of a receptacle device that accommodates an end of the first electrode, wherein the receptacle device is part of the base plate the base plate is made of an

elastic material. Further, Applicant's base plate tightly seals a lower area of a chamber which is enclosed by the housing and is tightly sealed with respect to the outside. (See, for example, page 7, lines 2 to page 8, line 5 and Figures 1 and 2 of the originally-filed specification.) The Office Action cites the lower end of the control member 5 in Figure 1 of Iwamoto as a base plate for the housing 2. However, Applicant submits that the control member 5 is not part of the housing and thus its lower end is not part of the housing either. The control member 5 appears to be a ring, rather than a plate, through which the measuring portion holder 3 is inserted. It also seems clear that the control member 5 does not seal a lower of the chamber as is recited by Applicant. Applicant also points out that the Iwamoto does not disclose that the control member 5 is made of an elastic material.

Accordingly, Applicant respectfully submits that Iwamoto does not teach or fairly suggest at least the above-noted features as claimed by Applicant. In view of the above, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

The rejection of claims 1-5 and 7-11 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,447,309 to Morioka, et al. (hereinafter "Morioka") with evidence provided by U.S. Patent No. 4,404,964 to Kambara (hereinafter "Kambara") and the online Oxford English dictionary definition of the word "diaphragm" viewed on 6-11-08 at [dictionary.oed.com](http://dictionary.oed.com) (hereinafter "Oxford English dictionary") is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein.

The features of independent claim 1, as amended herein, are discussed above. Claims 3-5 and 9-11 depend therefrom. Claims 2, 7 and 8 have been cancelled and their features incorporated into independent claim 1, as noted above.

The Morioka reference discloses a Ph sensor including a sleeve assembly having at least first and second spaces, a partition separating the two spaces from each other with a water tight seal, a barrel, a reference electrode accommodated in a first space with a liquid junction, a glass electrode having a sensor unit, a liquid grounding means, and a cable. The Office Action cites principally to Figure 1, citing elements of the glass electrode 8, sensing unit 15, contact 17, sleeve 1, conductive rubber 21, a rubber gasket 7, and cavity 8a, among other elements.

The Kambara reference is cited by the Examiner as indicating that conductive rubber is an elastic material.

The Oxford English dictionary is cited as supporting that Morioka's rubber gasket 7 is a diaphragm.

In accordance with the discussion above concerning features of independent claim 1, recites a measuring device having at least the features of a housing that has a base plate on a side of a receptacle device that accommodates an end of the first electrode, wherein the receptacle device is part of the base plate the base plate is made of an elastic material, and the base plate tightly seals a lower area of a chamber which is enclosed by the housing and is tightly sealed with respect to the outside. The Office Action indicates that the rubber gasket 7 is a base plate

and cites that the conductive rubber 21 is part of the rubber gasket 7. However, the analysis set forth in the Office Action (page 9) is that the conductive rubber 21 is connected to contact 22 which is connected to cable 23 through rubber gasket 7. Nothing about the connection of these disparate and different functioning elements in Morioka suggests that "conductive rubber 21 is part of rubber gasket 7" as is suggested in the Office Action. Instead, Figure 1A, the description of these elements in Morioka (see, for example, col. 4, lines 21-64), and even the Examiner's analysis all indicate instead that the elements are distinct and separately functioning elements. Applicant also points out that the rubber gasket 7 is shown as being separate from the sleeve 1, noting the use of different hatching of the rubber gasket 7 and sleeve 1, whereas Applicant's recite that the housing has a base plate on a side of the receptacle device and the receptacle device is part of the base plate, and wherein the base plate is made of an elastic material.

Accordingly, Applicant respectfully submits that Morioka does not teach or fairly suggest at least the above-noted features as claimed by Applicant. Applicant also submits that nothing about the evidentiary citations to Kambara and the Oxford English dictionary overcomes the above-noted deficiencies of the Morioka reference with respect to Applicant's presently-claimed invention. In view of the above, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

The rejection of claims 1-2, 10-11 and 21-22 under 35 U.S.C. 102(b) as being anticipated by WO 01/57507 to Derr (the English equivalent of which, US 2003/0057952 hereinafter referred to as "Derr") is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein.

The features of independent claim 1 are discussed above. Claims 10-11 and 21-22 depend therefrom. Claim 2 has been cancelled and its features incorporated into independent claim 1, as noted above.

The Derr reference discloses a measuring device with a plunge-in electrode. The Office Action indicates that movement of the entire device in any direction would indicate movement of the electrode along a longitudinal axis of the device because of the movement of the device.

Applicant has clarified that the electrode is movable in relation to the housing in the axial direction of the longitudinal axis of the measuring device. (See, for example, page 7, lines 6-8 of the originally-filed specification.) Thus, Applicant submits that simple movement of an entire device with an electrode as indicated in the Office Action as disclosed by Derr does not disclose an electrode that is moveable in relation to the housing as recited by Applicant. Applicant further submits that Derr does not disclose, nor is Derr cited in connection with, features discussed above in connection with independent claim 1, including a housing that has a base plate on a side of a receptacle device that accommodates an end of the first electrode, wherein the receptacle device is part of the base plate the base plate is made of an elastic material, and the base plate tightly seals a lower area of a chamber which is enclosed by the housing and is tightly sealed with respect to the outside. Accordingly, in view of the above, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

The rejection of claims 24-25 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,473,458 to Schwartz, et al. (hereinafter "Schwartz") is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein.

Independent claim 24, as amended herein, recites a portable pH meter having a modular replaceable pH measuring device, wherein said measuring device includes an elongated first electrode having a longitudinal axis for insertion into a material to be measured; a housing which at least partially surrounds the first electrode, wherein the first electrode is movable in relation to the housing in the axial direction of the longitudinal axis; a receptacle device that accommodates an end of the first electrode, wherein the housing has a base plate on a side of the receptacle device and the receptacle device is part of the base plate, and wherein the base plate is made of an elastic material; and a chamber which is enclosed by the housing and is tightly sealed with respect to the outside, wherein the base plate tightly seals a lower area of the chamber. Claim 25 depends from independent claim 24.

The Schwartz reference discloses an ion measuring device with self-contained storage of standardizing solution. The Office Action cites principally to Figure 4 of Schwartz, citing elements of measuring device 10, electrode component 12B, a working electrode 22, spring 28, cap 14, liquid crystal display 60, knobs 66, 68, pushbuttons 76, wire 34, and connectors 37, 40, among other components. The Office Action indicates that movement of the entire device in any direction would indicate movement of the electrode along a longitudinal axis of the device because of the movement of the device.

Applicant has clarified that the electrode is movable in relation to the housing in the axial direction of the longitudinal axis of the measuring device. (See, for example, page 7, lines 6-8 of the originally-filed specification.) Thus, Applicant submits that simple movement of an entire device with an electrode as indicated in the Office Action as disclosed by Schwartz does not disclose an electrode that is moveable in relation to the housing as recited by Applicant. Applicant further submits that Schwartz does not disclose, nor is Schwartz cited in connection with, features discussed above in connection with independent claim 1, including a housing that has a base plate on a side of a receptacle device that accommodates an end of the first electrode, wherein the receptacle device is part of the base plate the base plate is made of an elastic material, and the base plate tightly seals a lower area of a chamber which is enclosed by the housing and is tightly sealed with respect to the outside. Accordingly, in view of the above, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

The rejection of claim 23 under 35 U.S.C. 103(a) as being unpatentable over Iwamoto in view of U.S. Patent No. 5,512,104 to Mizushiri, et al. (hereinafter "Mizushiri") is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein.

The features of independent claim 1 are discussed above in connection with Iwamoto. Claim 23 depends therefrom.

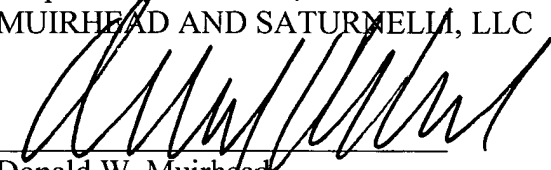


The Mizushiri reference discloses a method to separate and recover resin and steel pipe from resin-coated steel pipe. The Office Action cites to Mizushiri as disclosing the use of plastic synthetic resin such as acrylonitrile acryl styrene and acrylonitrile butadiene styrene.

Applicant submits that Mizushiri does not overcome the above-noted deficiencies of the Iwamoto reference with respect to Applicant's presently-claimed invention. In particular, Mizushiri does not disclose, nor is Mizushiri cited by the Office Action in connection with, the above-noted features recited by Applicant that are discussed in connection with the Iwamoto reference. Accordingly, Applicant respectfully submits that neither Iwamoto nor Mizushiri, taken alone or in combination, teach or fairly suggest at least the above-noted features as claimed by Applicant. In view of the above, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

Based on the above, Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections and objections. Favorable consideration and allowance are earnestly solicited. Should there be any questions after reviewing this paper, the Examiner is invited to contact the undersigned at 508-898-8603.

Respectfully submitted,  
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Date: October 22, 2008

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